



NEW HAMPSHIRE TIMBERLAND OWNERS ASSOCIATION

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December 11, 2002

REC

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DEPARTMENT OF
ENVIRONMENTAL SERVICES

Mr. Wayne Ives
Hydrogeologist
Watershed Management Bureau
NH Department of Environmental Services
PO Box 95-6 Hazen Drive
Concord, NH 03302

Re: Proposed Instream Flow Regulations

Dear Wayne,

The New Hampshire Timberland Owners Association (NHTOA) appreciates the opportunity to comment on the Department's proposed instream flow regulations. As New Hampshire's leading timber industry trade organization NHTOA has two concerns with the proposed regulations.

1. Public disclosure of the cost of compliance
2. Negotiation of water use amongst affected water users

Public disclosure of compliance cost

Env-Ws 1906.02 (b) (3) f and Env-Ws 1906.03 (d) requires the affected water user develop an economic assessment for compliance with the proposed rule. Although NHTOA support the Department's interest in understanding the economic impact from compliance with these rules we do not support the availability of this information to the general public. The cost of compliance with these rules is a business matter that should remain confidential.

Furthermore, public release of this information has the potential to place the affected water user in an awkward position with any party contesting the water management plan under Env-Ws 1906.06. In addition, public release of this data will negatively impact the affected user when it comes time to negotiate water use with other affected users under Env-Ws 1906.03(c).

The NHTOA suggests the Department include in the regulations a provision that will seal any financial data from public disclosure including "Freedom of Information Act" requests.

Negotiation amongst affected water users

Requiring the negotiation amongst affected water users under Env-Ws 1906.03(c) is problematic. The NHTOA sees this requirement as setting the stage for protracted legal wrangling over water usage rights and how the water withdrawals should be monitored. For rural businesses with large capital requirements and thin margins (e.g. saw mills) a costly legal battle over water withdrawals would be financially devastating.

The NHTOA suggests the Department drop this requirement from the regulations.

Thank you for the opportunity to comment on these proposed rules. We look forward to working with you to insure these rules do not negatively impact the Granite State's oldest industry – timber. An industry that promotes the stewardship and management of millions of acres of private forestland which has a direct positive impact on the state's air and water quality.

Sincerely,

A handwritten signature in black ink, appearing to read "Jason A. Stock", with a long horizontal line extending to the right.

Jason A. Stock

Executive Director

New Hampshire Timberland Owners Association